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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/571,728

11/08/2006

Terje Angelskaar

COJ-0526

2793

23575

7590

06/26/2009

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EXAMINER

MARCANTONI, PAUL D

ART UNIT

PAPER NUMBER

1793

MAIL DATE

DELIVERY MODE

06/26/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/571,728	<b>Applicant(s)</b> ANGELSKAAR ET AL.	
	<b>Examiner</b> Paul Marcantoni	<b>Art Unit</b> 1793	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 March 2006 and 08 November 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/21/07;3/14/06</u> .   | 6) <input type="checkbox"/> Other: _____                          |

Art Unit: 1793

The applicant's preliminary amendment on 3/14/06 would appear to have lead to issues under 35 USC 112 First paragraph:

Enablement:

Claims 1-20 are not commensurate with an enabling disclosure because applicants do not have support for *any* lithium salt. Paragraph [0037] of applicants' specification requires that –the lithium salt to be used in the present invention may be any one of lithium hydroxide, lithium carbonate, and lithium sulfate, or combinations thereof--.

Applicants may resolve by amending to the original form of their claims including the actual lithium salts and mixtures thereof or combinations thereof to resolve said issue.

35 USC 102/103:

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-20 are rejected under 35 U.S.C. 102(b and e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over over Angelskaar et al. '669 B2, '808 B2, WO '739 A1, Nakashima et al. '473 A1 or '059 A1, JP 02004035387 A (Angelskaar et al.), or Maltese et al. (WO 2005040059).

*Note: All references are "e" references with exception of JP '387.*

All of the above cited references teach a liquid accelerator comprising a fluoride containing aqueous aluminum salt and also contains a lithium salt component thus anticipating applicants' instant claims. Please refer to respective claims for each individual reference. Even if not anticipated, overlapping ranges of amounts would have been prima facie obvious to one of ordinary skill in the art.

Note: the Angelskaar references were rejected over applicants either because the inventive entity is not the same for the instant application and the prior art.

The use of an accelerator in a sprayer is conventional in the art and one of ordinary skill in the art would have understood wet/dry spraying techniques were old and known and conventional at time of applicants' invention (MPEP 2144).

Cited of Interest as Relevant Art:

Sommer et al. (US 6,537,367 B2) has been cited of interest but appears to teach away from applicant's claimed invention because they do not teach a lithium salt.

Sommer et al. (US 6,540,826 B2) has been cited of interest but appears to teach away from applicants' claims because they teach a "sulfate free" accelerator wherein one of applicant's raw material components is aluminum sulfate.

Art Unit: 1793

JP 2001261393 has been cited of interest but also does not appear to teach a lithium salt.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Marcantoni whose telephone number is 571-272-1373. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Paul Marcantoni/  
Primary Examiner, Art Unit 1793